App. F. IX-4

1949-50
(CB)

File No. 38-49

Serial Nos. 3

Previous References.

Later References.
Misc. 191-52-7

GENERAL AND REVENUE SECRETARIAT

Serial Nos. One

✓

Part B for Sept 1950

SUBJECT

Procedure of Communication with the Government of India —

No 8764-73/CB38-49-3 dt. $\frac{19-9-50}{23}$

To

Secretaries to Govt
Copy to all under & Asst
Secretaries to Govt —

JDA 15/10/50

Serial No.

3) Before noting further, the file connected file from the Law Branch will be obtained. A separate requisition is sent placed below for being marked to Law Br.

x

Sent to Law Branch Today 4/9 CKS 4/9/50

4) Done KMP 4.9.50.

Linked 4/9 .50.

Returned to Law Br (Cons 3039/CB) CKS 13/9/50

6) The connected file received from the Law Branch is hereto linked.

7) The letter No 2331/Cts 2.6-50-7 Dy. 30-8-1950 to from the Law Secretary is in reply to letter No 11/10/50 Judl dt 13-5-1950 from the Dy Secretary to the Govt of India, Ministry of Home Affairs. As such the procedure in having addressed the ~~Dy Secretary~~ Ministry of Home Affairs seems to be all right. But it is not ~~definitely~~ known whether ~~Govt~~ replies to letters received from a Secretary, or a Dy Secy, or a Joint Secretary to Govt of India should be addressed to the very same officer or ~~that~~ they should be addressed only to the Secretary

NOTE—Contn. Sheet.

Serial No.

to Govt of India in the concerned ministry.

CKS 7/9/50 (8) A copies of the memorandum showing the procedure to be adopted in connection with the appointment of and Transfer of district judges of High Courts in Part B States and letter No. F-19(8)-P/50 of 19-4-50 from the Deputy Secretary to Govt of India Ministry of States stating that all recommendations regarding the appointments of judges of High Courts in Part B States should be made to the Hon'ble Minister for States. Perhaps the procedure laid down in these two communications does not apply to the present case, viz creation of additional one more post of High Court Judge because the proposals in the letter of 13-5-50 from the Home Ministry would have been received originated from the States Ministry itself in case the instructions contained in letter of 19-4-1950 should have applied apply to the present case also.

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Serial No.

Subd with my h para 2 of the notes

CKS 8/9/50

9) The procedure followed in this Case seems to be in order.

Chief Secy) 8.9.50

8.9.50.

10) His reference of 30.8.50 should have been addressed to the Secretary, Ministry of Home, instead of to a Deputy Secretary. Even though the incoming reference may have been signed by a Dy. Secy.

11) The dayl, together with the file, should have been sent to the Chief Secretary before issue, as required in the O.M. dated 1.8.49 x and the O.M. of 3.10.49 x.

Fl. S.

Fl. R.

12) Being an important reference it could have been signed by the Law Secy. or the Chief Secy.

13) In other respects — The procedure is in order.

7.9.50.

Ch Minr)

14) O.M. to issue again clarifying the procedure to be followed.

Read. 12/9/50.

12/9.

12.9.50.

CHIEF SECRETARY 7 SEP 1950 366 GOVT. OF MYSORE

Office of the Chief-Minister No. H.I.S.5 Date of Receipt 9/9

CHIEF SECRETARY 12 SEP 1950 GOVT. OF MYSORE

NOTE—Contn. Sheet.

Communications with Govt of India — Procedure

File No. — of 19 3039/CB General and Revenue Secretariat

Serial No.

draft O.M is noted

CKO 13/9/50 Please put up a fair draft.

13.9.50 Fair dft & an O.M is put up for approval.

CKO 16/9/50 (Chief Secy)

Issue 16/9/50

16-9-50

Issue 18/9

SO&R 19.9.50

CHIEF SECRETARY. 5831 18 SEP 1950 GOVT. OF MYSORE.

O.M No 8764-73/CB 38-49-3 of 23 19/23-9-1950 & all Annexures.

GOVERNMENT OF HIS ~~HIGHNESS THE MAHARAJA OF~~ MYSORE.

No. 2331 / CG 26-50-7
Ed-2

General and Revenue Secretariat,
Dated, Bangalore 30 AUGUST 1950.

FROM

The Secretary to the Government of ~~His Highness the Maharaja of~~ Mysore.
Law Department.

To

The Deputy Secretary
to the Government of India,
Ministry of Home Affairs, NEW DELHI.

SIR,

Subject: Fixation of maximum number of Judges in each High Court under Article 216 of the Constitution.-

---

With reference to your letter No.11/10/50-Judl. dated 13th May 1950 on the above subject, I am directed to state that the High Court of Mysore who were consulted in the matter, have stated that they are strongly of opinion that the strength of the Judges of the High Court including the Chief Justice should be fixed at six.

The Government of Mysore have given their earnest and careful consideration to this subject and they agree with the views of the High Court of Mysore.

I am accordingly to recommend that the number of permanent Judges of the High Court of Mysore including the Chief Justice may be fixed at six.

I am also to forward herewith two statements embodying the statistics relating to the number of Judges employed in the High Court of Mysore during the past five years and the state of work in thet Court for the last three years.

Office of the Chief Minister
No. M.267
Date of Receipt 31/8/50

Yours faithfully,

1) Submitted for perusal
HMS 31.8.50

Secretary to Government
Law Department.

mak.

Copy to Office of the Chief Minister.

CHIEF SECRETARY
CB

2) Is the procedure that has been adopted correct one ?

KCR 31/8
(Letter sec)

GOVERNMENT OF MYSORE

General and Revenue Secretariat.

No. 8764-73/
C.B.38-49-3

Dated, Bangalore, 19th September 1950.
23-9

OFFICIAL MEMORANDUM.

Important Communications to Government of India.

In inviting reference once again to the marginally noted* two Official Memoranda, Secretaries to Government are requested to see that all important letters to Government of India pass through the Chief Secretary to Government, at the stage of issue. Deviations from this approved procedure, such as not marking the file to the Chief Secretary or marking it even before orders of Hon'ble Ministers are obtained, have recently come to notice, and it is requested that the correct procedure may kindly be adhered to without fail.

*1. No. 878-88/C.B. 38-49-1, dated 1st August 1949.
2. No. 3063-72/C.B. 38-49-2, dated 3rd October 1949.

Secretaries to Government are also requested to see that in future all important communications to the Government of India are invariably signed by themselves and not by an Under or Assistant Secretary to Government.

Communications to the Government of India may always be addressed only to the Secretary to the Government of India in the Ministry concerned, even though the incoming reference from the Government of India may have been addressed to this Government by a Joint Secretary or a Deputy Secretary, or an Assistant Secretary to the Government of India. This applies to communications from other State Governments also.

K. SRINIVASAN,
Chief Secretary to Government.

To

✓The Secretaries to Government.
✓Copy to all Under and Assistant Secretaries to Government.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat,

No. 8764-73/C.B. 38-49-3 *Dated Bangalore,* 19th Sept. *19* 50.

OFFICIAL MEMORANDUM.

Subject: Important Communications to Government of India.

In inviting reference once again to the marginally noted* two Official Memoranda, Secretaries to Government are requested to see that all important letters to Government of India pass through the Chief Secretary to Government, at the stage of issue. Deviations from this approved procedure, such as not marking the file to the Chief Secretary or marking it even before orders of Hon'ble Ministers are obtained, have recently come to notice, and it is requested that the correct procedure may kindly be adhered to without fail.

* 1. No.878-88/C.B. 38-49-1 dated 1st Aug. 1949;
2. No.3063-72/C.B. 38-49-2 dated 3rd Oct. 1949.

Secretaries to Government are also requested to see that in future all important communications to the Government of India are invariably signed by themselves and not by an Under or Assistant Secretary to Government.

Communications to the Government of India may always be addressed only to the Secretary to the Government of India in the Ministry concerned, even though the incoming reference from the Government of India may have been addressed to this Government by a Joint Secretary or a Deputy Secretary, or an Assistant Secretary to the Government of India. This applies to communications from other State Governments also.

K.M. Ramakrishnaiya
Chief Secretary to Government.

To

The Secretaries to Government; CKS

Copy to all Under and Asst. Secretaries to Govt.

No. 8764-73/CB. 38-49-3. 9.19.9.1950

Draft)

OFFICIAL MEMORANDUM

Subject: Important Communications to Government of India.

*****

In inviting reference once again to the marginally noted two Official Memoranda, Secretaries to Government are requested to see that all important letters to Government of India pass through the Chief Secretary to Government, at the ~~time of~~ stage of issue, ~~or earlier.~~ and not Deviations from this approved procedure have recently come to notice, and it is requested that the correct procedure may kindly be adhered to without fail.

Hags/HR

No.878-88/C.B.38-49-1 dated 1st August 1949.
No.3063-72/C.B.38-49-2 dated 3rd October 1949.

—Such a act marking to file to the C.S. or marking it seen before orders of Hon'ble Mins. are obtd.—

Secretaries to Government are also requested to see that in future all important communications to the Government of India are invariably signed by themselves and not by an Under or Assistant Secretary to Government.

Communications to the Government of India may always be addressed only to the Secretary to the Government of India in the Ministry concerned, even though the incoming reference from the Government of India may have been addressed to ~~this~~ this Government by a Joint Secretary or a Deputy Secretary, or an Assistant Secretary to the Government of India. This applies to Comms from other State Govts. also—

16/9

Chief Secretary to Government.

16/9/50.

To-The Secretaries to Government.
Copy to all Under & Assistant Secretaries to Government.

16-9-50.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat,

No. 878-88/C.B.38-49-1 *Dated Bangalore,* ...1st August.....*19* 49.

OFFICIAL MEMORANDUM.

Secretaries to Government are requested kindly to note that all important correspondence with the Government of India dealt with in any branch is here-after passed through the Chief Secretary to Government at the time of issue or earlier, according to the nature of the subject. While it may not be necessary to put up such files to the Chief Secretary at every stage, it is quite necessary and important that no letter on any important matter to the Government of India is issued before the concerned file with the letter is perused or passed through the Chief Secretary to Government.

(Sd) K.M.Ramakrishnaiya.
for Chief Secretary to Government.

The Secretaries to Government.

CK

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat,

No. 3063-72/C.B.38-49-2 *Dated Bangalore,* ....3rd October..19 49.

OFFICIAL MEMORANDUM.

In inviting reference to Official Memorandum No.878-88/C.B.38-49-1 dated 1st August 1949, Secretaries to Government are requested to see that only important correspondence with the Government of India is passed through the Chief Secretary to Government, and that, just before despatch, with a clear and intelligible draft or note. A number of files are being indiscriminately sent at present at initial or incomplete stages as if to seek the opinion of the Chief Secretary. It is obviously impossible for the Chief Secretary to study entire files of all branches of Secretariat or to examine cases and draft replies or approve of them, which should be done fully by the administrative branch concerned. The object of the procedure is only that the Chief Secretary should be apprised of all important correspondence with the Government of India and be aware of such important matters dealt with in other branches. In marking such files to him, Secretaries to Government are requested kindly to see that this object is kept in view.

SD. K.M.RAMAKRISHNAIYA,
For Chief Secretary to Government

To

The Secretaries to Government.

LC/2

Statement showing the actual number of Judges employed in the High Court of Mysore during the last five years.-

Sl. No.	YEAR (From 1st July to 30th June)	Permanent Judges including the Chief Justice	Temporary Judges	Total	Remarks
1.	1945-46	4	2	6	The permanent strength was raised from 4 to 5 including the Chief Justice from 14th February 1946.
2.	1946-47	5	1*	6	*The term of the Temporary Additional Judge of the High Court was termineted with effect from 14th February 1947.
3.	1947-48	5	-	5	
4.	1948-49	5	1	6	An Additional Judge was appointed with effect from 24th November 1948 and continued to work as such till 3rd April 1949 only.
5.	1949-50 (from 1-7-49 to 31-3-1950)	5	-	5	

By order,
Secretary to Government
Law Department.

mak.

Statement showing the state of work and the
disposed of and pending at the close of
yeers in the HIGH COURT

Sl. No.	Class of Cases	1946-47 (From 1st July to 30th June) Pending	Instituted	Disposed of	Pending	1947-48 (From 1st July to 30th June) Instituted	Disposed of	Pending
	CIVIL:							
1.	Regular Appeals	242	225	324	143	215	159	199
2.	Second Appeals	306	679	539	446	739	603	582
3.	Miscellaneous Appeals	37	49	58	28	83	65	46
4.	Civil Revision Petitions	172	496	449	219	454	502	171
5.	Civil Petitions	27	94	85	36	105	91	50
6.	Civil Referred Cases	..	..	..	..	1	1	..
	CRIMINAL							
7.	Criminal Appeals	3	28	24	7	35	31	11
8.	Criminal Revision Petitions	40	299	283	56	250	233	73
9.	Criminal Petitions	1	130	128	3	105	100	8
10.	Criminal Revision Cases	2	45	38	9	23	29	3
11.	Crl. Referred Cases	..	4	3	1	8	8	1
12.	Criminal Miscellaneous Appeals	..	..	..	..	..	..	
13.	Contempt of Court Cases	..	..	..	..	1	1	

al number of cases instituted,
the year for the last three
MYSORE, BANGALORE.

1948-49 (From 1st July to 30th June)			1949-50 (From 1st July 1949 to 31st March 1950)			Remarks
nsti-tuted	Dispos-ed of	Pend-ing	Insti-tuted	Dispos-ed of	Pend-ing	
239	125	313	186	141	358	
676	428	830	529	386	973	
79	95	30	83	66	47	
550	411	310	443	425	328	
130	114	66	139	142	63	
3	1		7	9	..	
50	43	18	41	49	10	
327	323	77	289	328	38	
191	191	8	123	129	2	
26	26	3	13	15	1	
6	7	..	15	7	8	
..	..	..	..	..	..	
4	3	1	3	3	1	

Secretary to Government
Law Department.

SECRET.

MEMORANDUM SHOWING THE PROCEDURE TO BE ADOPTED IN CONNECTION WITH THE APPOINTMENT AND TRANSFER OF JUDGES OF HIGH COURTS IN PART 'A' AND 'B' STATES.

Received with letter No 11/22-B/49-Appt-Spl/Judl dt 15-3-50 from the Ministry of Home Affairs

PERMANENT APPOINTMENTS

Chief Justices and Judges of High Courts are to be appointed by the President under clause (1) of article 217 (read with article 238) of the Constitution.

When a permanent vacancy is expected to arise in the office of a Judge, the Chief Justice will as early as possible communicate to the Chief Minister of the State his views as to the person to be selected for permanent appointment. The Chief Minister will, in consultation with the Governor/Rajpramukh, forward his recommendation to the Minister of Home Affairs in the Central Government. The Minister of Home Affairs, in consultation with the Chief Justice of India and the Prime Minister, will then advise the President as to the selection. The same procedure will be observed with regard to the appointment of Chief Justices, except that the recommendation for appointment of a Chief Justice will originate from the Chief Minister.

The correspondence between the Chief Justice and the Chief Minister and the correspondence between the Chief Minister and the Governor/Rajpramukh should be in writing and copies of the correspondence should invariably be forwarded along with the Chief Minister's recommendations.

The correspondence between the Chief Minister and the Minister of Home Affairs in the Central Government should be demi-official, unless on any point a private and personal communication is desired.

2. As soon as the appointment is approved, the Secretary to the Government of India in the Ministry of Home Affairs will inform the Chief Minister of the State, who will obtain from the person selected a certificate of physical fitness signed by a Civil Surgeon or District Medical Officer. When the medical certificate has been obtained, the Chief Minister of the State will intimate the fact to the Secretary to the Government of India in the Ministry of Home Affairs.

The medical certificate is to be obtained from all persons selected for appointment whether they are at the time of appointment in the service of the State or not.

3. As soon as the warrant of appointment is signed by the President, the Secretary to the Government of India in the Ministry of Home Affairs will inform the Chief Minister and will announce the appointment and issue the necessary notification in the Gazette of India.

APPOINTMENT OF ACTING CHIEF JUSTICE.

4. Appointment of acting Chief Justices is to be made by the President under article 223 of the Constitution. Any vacancy in the office of Chief Justice must be filled whatever the period of the vacancy. The Chief Minister of the State, after consulting the permanent Chief Justice and the Governor/Rajpramukh, will forward to the Minister of Home Affairs in the Central Government full particulars relating to the vacancy, together with his recommendation for appointment of one of the Judges of the High Court to perform the duties of Chief Justice. The Minister of Home Affairs will consult the Chief Justice of India and the Prime Minister befor advising the President as to the person selected for acting appointment. As soon as the President has approved the appointment, the Secretary to the Government of India in the Ministry of Home Affairs will inform the Chief Minister of the State and will announce the appointment and issue the necessary notification in the Gazette of India.

ATTENDANCE OF RETIRED JUDGES AT SITTINGS OF HIGH COURTS.

5. Under article 224 of the Constitution, the Chief Justice of a High Court may at any time, with the previous consent of the President, request any person who has held the office of a Judge of that Court or of any other High Court to sit and act as a Judge of the High Court of the State. Whenever the necessity for such an appointment arises, the Chief Justice will, after obtaining the consent of the person concerned, communicate to the Chief Minister of the State the name of the Judge and the period for which he will be required to sit and act as Judge of the High Court. The Chief Minister will, after consultation with the Governor/Rajpramukh, forward his recommendation to the Minister of Home Affairs in the Central Government The Minister of Home Affairs, in consultation with the Chief Justice of India and the Prime Minister, will then advise the President as to the person to be appointed to sit and act as a Judge of the High Court. As soon as the President gives his consent to the appointment, the Secretary to the Government of India in the Ministry of Home Affairs will inform the Chief Minister and will issue the necessary notification in the Gazette of India.

TRANSFER OF A JUDGE FROM ONE HIGH COURT TO ANOTHER.

6. Under clause (1) of article 222 of the Constitution, the President may, after consultation with the Chief Justice of India, transfer a Judge from one High Court to any other High Court. When it is proposed to transfer a Judge from one High Court to another, the Minister of Home Affairs will, in the normal course, ascertain from the Chief Minister of the State in which the High Court is situated and whence a Judge is proposed to be transferred, whether the Governor/Rajpramukh of that State and the Chief Justice of the High Court have any objection to the release of the Judge. The Minister of Home Affairs will simultaneously ascertain from the Chief Minister of the State to which it is proposed to transfer the Judge, whether the Governor/Rajpramukh and the Chief Justice of the High Court in that State have any objection to the proposed transfer. Thereafter, the Minister of Home Affairs will consult the Chief Justice of India and the Prime Minister before advising the President as to the transfer. When the President approves the transfer, the Secretary to the Government of India in the Ministry of Home Affairs will inform the Chief Ministers concerned and will announce and issue the necessary notification in the Gazette of India.

NOTIFICATION OF ASSUMPTION OF OFFICE, ETC.

7. The notification of assumption of office by all Judges will be made by the State Government in the official Gazette.

It will also be the duty of the State Governments to communicate copies of the orders passed by the President to the High Courts, individual Judges and Accounts Officers concerned.

SECRET

No. F.19(8)-P/50. Dated New Delhi, the 19/4/1950.

From

The Deputy Secretary to the Government of India, Ministry of States

To

K.Srinivasan, Esq.,
Chief Secretary to the Government of Mysore, Bangalore.

Sir,

Sub:- Procedure to be adopted in connection with the appointment and transfer of Judges of High Courts in Part B States.

Ref:- Government of India, Ministry of Home Affairs letter No. 11/22-A/49-Apptt. (Sp)/ Judl, dated March 1950.

In partial modification of the Memorandum enclosed with the letter under reference, I am directed to state that the Government of India have now decided that all recommendations regarding the appointments of judges of High Courts in Part B States will be made to the Hon'ble Minister for States, and ~~not~~ not to the Minister for Home Affairs as stated in that Memorandum.

Yours faithfully

Sd.....

Deputy Secretary to the Government of India.